

MONO COUNTY PLANNING COMMISSION

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MINUTES September 14, 2006 (Adopted October 26, 2006)

Commissioners present: Ron Black, Scott Bush, Rick Kattelman, Sally Miller, Steve Shipley.

Staff present: Scott Burns, director; Greg Newbry, senior planner; Gwen Plummer, associate planner; Haven Kiers, assistant planner; Nick Criss, compliance specialist; Evan Nikirk & Walt Lehmann, public works; Mark Magit, assistant county counsel; C.D. Ritter, commission secretary.

1. CALL TO ORDER: Chair Rick Kattelman called the meeting to order at 10:13 a.m.

2. PUBLIC COMMENT: No items.

3. MEETING MINUTES: Review minutes of Aug. 10, 2006.

MOTION: Adopt minutes of Aug. 10, 2006. (Miller/Black. Ayes: 4. Abstain due to absence: Bush.)

4. CONSENT AGENDA:

FINAL APPROVAL, PARCEL MAP 31-93/Wasser. The parcel map will divide APN 02-070-05, totaling 23.86 acres, into three residential lots of 5.00 acres, 6.00 acres, and 12.86 acres. The property is located on the west side of U.S. Highway 395 at its intersection with Larson Lane in the community of Walker. The General Plan designation is Rural Residential with a minimum 5-acre lot size (RR 5). The tentative parcel map was conditionally approved by the Planning Commission at a public hearing conducted May 11, 2006. *Staff: Evan Nikirk*

Evan Nikirk indicated the developer had not completed two of the conditions he had been assured would be resolved prior to the Planning Commission meeting (power line easement and water tank relocation), and no one had contacted the owner of the water tank since tentative map approval to address tank and water line relocation. He recommended continuation.

Wyatt Owens, Wasser's surveyor/engineer, cited conflicting direction from Public Works on the power easement map reference. Nikirk responded that the owner needs to either record an easement prior to map approval and reference it on the map, or create an easement by separate instrument to be recorded concurrently with the map. Nikirk presented these options to Owens in his mark-up notes and a follow-up phone conversation.

Rose Murray, Wasser's agent, noted that the water tank could remain where it is, as road improvements would not impact it. She indicated that a prescriptive easement existed for the tank.

According to Nikirk, however, a prescriptive easement has not been formalized in a court of law. As for a new easement, Owens had told him that he was instructed by Wasser not to put it on the map. Since the road construction will not impact the tank, Public Works gave the owner the option of either relocating the tank per Condition #42 or creating an easement for access and maintenance at the existing location.

At a field meeting with Public Works this morning neighbor Dale Payne, owner of the water tank, said she has not been contacted by the developer. If the road bypasses the tank and does not affect it, she is willing to accept an easement. She expressed concern about the impact of construction on water lines. If the lot were sold, the new owner might not agree with the tank and vandalize it.

DISTRICT #1
COMMISSIONER
Rick Kattelman

DISTRICT #2
COMMISSIONER
Steve Shipley

DISTRICT #3
COMMISSIONER
Ron Black

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Sally Miller

Payne must negotiate with the developer regarding recognition of her right to use and maintain the tank. Payne would like the right to construct a shed over it (like a pump house) to prevent vandalism. Murray indicated the tank is not used year round. Nikirk advised Murray that since the improvement plans did not address the tank relocation, the grading permit would have conditions specifying that the contractor extend the water line underground in the centerline of the existing road and remediate the temporary access road adjacent to the tank.

Magit stated that it appears that tentative map conditions #28 and #42 had not been complied with. There must have been some discussion before the Planning Commission concerning the water tank issue when the tentative map was approved leading to the imposition of Condition #42. [*Note: Magit was not present at the May 11 hearing.*] It is not clear that this issue is completely resolved by leaving the water tank where it is, and not relocating it. He suggested addressing the condition differently, as it can not be resolved right now. Parties involved should get together to amend Condition #42. The map is not ready, so he recommended returning when everything is final.

Commissioner Kattelman reminded everyone that Conditions of Approval ought to be taken seriously, especially when contentious.

NO ACTION TAKEN.

5. PUBLIC HEARINGS:

A. USE PERMIT 34-06-05/Hebert. The proposal is to convert an existing 690-square foot building on a 1.8-acre lot into a drive-through restaurant, adding 36 outdoor seats on a new 1,008-square foot deck, live amplified/acoustical music, retail sales, on- and off-site beer/wine sales, and 360 sq. ft. of exterior display. The parcel is located on the west side of U.S. Hwy. 395, APN 21-080-22, at the south entrance to Lee Vining. *Staff: Greg Newbry*

Greg Newbry presented a PowerPoint on the proposal and reviewed the Conditions of Approval.

OPEN PUBLIC HEARING. Kerry Kellogg, closest neighbor, asked about amplified music. County ordinance shuts music down at 10 p.m., but he wanted to protect his rights by showing up now.

Darryl Young, Hebert's agent, indicated that Caltrans is taking a strong look at issues that might affect layout, such as curbing and sidewalks. These amenities are not required, however. Young indicated they would be cost-prohibitive for the proponents. Landscaping details hinge on water. Retail sales will feature local art, pottery, baskets, and wood carvings (not bears). The menu for breakfast/lunch/dinner would include coffee drinks, bagels, gourmet burritos, wraps, and beer and wine. The business would operate 7 a.m. to 10 p.m. and offer equipment rentals (snowshoes, etc.) in winter. Projected opening is spring 2007. Owners have removed the former gasoline sign. Pavement will be done soon and landscaping in spring. Refuse bins will be occluded from view. **CLOSE PUBLIC HEARING.**

DISCUSSION: Commissioner Miller: 1) Landscaping: Sufficient water? The site is visually sensitive, so improve its appearance. Proponent Hebert indicated that the Lee Vining PUD gave permission for minimal landscaping. The 650' deep well should be adequate. However, they would be landscaping property they don't even own. Young indicated plenty of water for the restaurant and efficient landscaping of the "great lawn." Aspens take lots of water, but later could get creek water. Review after it's open for a summer. 2) Color: A big issue, with lots of complaints about the "hideous purple." "Given where we live and sensitivity of site at the entrance to town, earth-tone colors would be better." Maybe purple in the logo? Commission should make the decision, not staff. 3) Music: Address it ahead of time so neighbors don't show up to complain. Cut it off at 10 p.m., like everybody else. Newbry indicated that Code specifies a decibel level, but different kinds of sound can create a nuisance. Define "acoustic." 4) Safety: The project is not in the Scenic Highway corridor, but is right next to the highway. Raised planters could provide a safety barrier for kids along the "great lawn." A split-rail fence might impede the progress of 4-year-old. 5) Entrance: Inherently unsafe. Caltrans will work that out. Pressure is put on staff if it's left till later. 6) Timeline: Burns indicated that staff was trying to move the project along, meet deadlines. Getting specifics in black and white is preferred.

Commissioner Black: 1) Sound: Maybe baffles would direct sound in the opposite direction. 2) Snow storage: More than ample space. Ensure sidewalk is not icy. 3) Color: Chosen to match lupine blooms, but is pretty shocking regardless of how much lupine grows on the hillside. 4) Septic: Septics fill up fast from a restaurant. Young indicated a system engineered for the site will handle year-round use, although winter months would be virtually nonexistent. Septic is over-engineered and will be inspected twice/year. All biodegradable disposable containers.

Commissioner Shipley: 1) Vagueness: Liked their ideas, but how can a plan be approved when details are not worked out? He preferred a better grasp of what it'll look like. 2) Color: Had a problem with it. This site is a focal point of the community. 3) Music: Adding bass or drums would create a thumping sound that carries. Be more specific. Get a permit when a full band performs; should not be a constant thing. He thought that much could happen now, and final approval be granted later.

Magit: This is a gateway project that's important to the community. Commissioners could approve the overall project in concept, with specific items subject to further approval. The plan is not ready yet, so work on it and return next month. Or, if they need to begin infrastructure now, approve on the condition that other items will be dealt with later.

Newbry asked what things could be done in the next month. Hebert indicated a \$50,000 septic expense might be incurred for naught. Staff wants to help applicants be successful, but constraints exist. The concept could be approved subject to final approval of specifics.

Commissioner Bush: He is not used to doing "concept approvals." Make sure commissioners don't say later, "What were we *thinking?*" A lot of people have said, "Please forgive us for what we've done, now approve it." Everyone has a mental image, but maybe not what the proponents pictured.

Burns recommended delegating approval to Planning Commission instead of staff.

MOTION: Approve Use Permit 34-06-05 as amended: Find that it qualifies as a Class 3 Categorical Exemption, make required findings in staff report, and subject to revised Conditions of Approval: 1) Conditions 3, 5, 7, 8, 10-12, 17, 18, 21 & 23 change ~~Community Development Department~~ to **Planning Commission**; 2) Reword #29: ... revisions **after final approval**...; and 3) Add #30: Planning Commission review in fall of 2007. (Miller/Shipley. Ayes: 5.)

B. EXTENSION OF TENTATIVE PARCEL MAP 37-176/Vasquez. The proposed project would divide APN 25-030-24, totaling 5.72 acres, into five parcels (two 1.0-acre and three 1.1-acre parcels) and a road. The property is located on the west side of U.S. Hwy. 6, about one mile south of the intersection of Hwy. 120 and the community of Benton. The General Plan designation is Rural Residential (RR). In accordance with Section 15183 of the CEQA Guidelines, a prior EIR is being used for this project. *Staff: Gwen Plummer*

Gwen Plummer indicated minor detail needs completion.

OPEN PUBLIC HEARING. No comments. **CLOSE PUBLIC HEARING. DISCUSSION:** None.

MOTION: Approve the first one-year extension of Tentative Parcel Map 37-176 based on an environmental study previously approved in accordance with CEQA Guidelines Section 15183, adopt the findings in the staff report, and subject to Conditions of Approval. (Miller/Shipley. Ayes: 5.)

-- Commissioner Bush exited at 12:03 p.m. --

6. WORKSHOP:

A. PROPOSITION 90 OVERVIEW: "Protect Our Homes Initiative."

Mark Magit presented a PowerPoint on Prop. 90, which deals primarily with redevelopment. If it passes, the only way to undo it is by initiative. No cases are pending in the county, and Mono County has not taken a position on the proposition.

B. DESIGN GUIDELINES.

Haven Kiers presented Design Guidelines to all RPACs and received mostly verbal feedback. The overall objectives are suggestions, not requirements. She outlined new topics such as ridgeline development and building site selection. People want to look at mountains, not huge houses

silhouetted against the sky. Cargo containers, manufactured housing, and metal buildings should promote architectural interest, create visual compatibility, and suggest permanence. Design Guidelines will be packaged with General Plan Amendments.

Commissioner Shipley preferred that guidelines be mandatory. It's almost a waste of time on certain issues, he said, as ambiguities leave room for sideslipping. "It's better if you don't, but we're not saying you can't."

Commissioner Miller suggested incorporating the ideas into the General Plan as guidelines so people would be more receptive to doing them. She wondered whether each community should make a decision on cargo containers.

C. UPDATE ON JUNE LAKE COALITION ACTIVITIES

On behalf of Supervisor Vikki Bauer, Commissioner Black introduced the June Lake Coalition materials, comprised of presentations, guidelines, results, reports and decisions since May 2006. The goal was to blend adverse opinions and interests to create a working group for economic vitality of June Lake. Bauer identified unresolved questions, attempting to come up with general consensus issues as well as those not agreed upon. It was a good informational process for everyone. The group's activities will conclude Sept. 19 with a vote on a recommendation to submit to the Mono Supervisors. The Coalition worked professionally, and members understood and respected each other's opinions. Commissioner Miller represented Planning Commission at a recent Coalition meeting.

7. REPORTS:

A. DIRECTOR: An environmental scoping meeting will be held for Silver Peak Ranch, a 30-lot subdivision in Benton (200 new lots are proposed in an area with a population of 500). SP/EIRs have been submitted for Rock Creek Canyon (Paradise) and Aspens at Gull Lake (June Lake).

B. COMMISSIONERS:

Shipley: The Land Use Element verbiage is gray enough to allow a lot of latitude. The community sees something that shouldn't happen, but no prohibition exists in the criteria. Something more concrete would give staff the ability to say, "You can't put that there." It's tough to tell a property owner you're not really sure if it can be done. No cut-and-dried answer exists. Burns indicated staff can't be arbitrary; it needs guidance. Clarify, not restrict. Schedule setbacks workshop.

8. INFORMATION: No items.

9. ADJOURN: 1:30 p.m.

Respectfully submitted,
C.D. Ritter, commission secretary